

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

IN RE: CHRYSLER PACIFICA FIRE RECALL  
PRODUCTS LIABILITY LITIGATION

Case Number: 22-md-3040  
Honorable David M. Lawson

MDL No. 3040

*This Document Relates to:* ALL ACTIONS

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**JOINT STATUS REPORT**

The Parties provide this Joint Status Report to apprise the Court of the Parties' progress since the last status conference, held on December 20, 2022.

1. On December 20, 2022, the Parties served their Rule 26(a)(1)(A) initial disclosures.

2. On January 9, 2023, counsel for the Parties participated in an organizational call with the Court-appointed mediator, Mr. Tom McNeill. The Parties are in the process of collecting documents and information which will assist in future mediation sessions, the first of which will be scheduled after a review and analysis of those materials has been completed.

3. As of January 30, 2023, both Parties have served written objections and responses to discovery requests and both Parties are in the process of searching for, reviewing, and producing documents responsive to requests for production. The

Parties also anticipate the need to meet and confer on certain objections and responses raised by each Party.

4. Pursuant to ECF No. 33, the motion to dismiss briefing will conclude on February 13, 2023, when Defendant will file its reply in support of the motion. The Court has set the hearing for June 28, 2023.

5. On February 1, 2023, Plaintiffs filed a complaint captioned *Kappes, et al. v. FCA US LLC*, Case No. 2:23-cv-10259 (E.D. Mich.), which is currently pending before Judge Friedman.

**Plaintiff's Position:** All of the Named Plaintiffs in *Kappes* are also Named Plaintiffs in this case (there are additional Named Plaintiffs here who are not Named Plaintiffs in *Kappes*, but they are members of the putative class in *Kappes*). While the alleged defect here concerns only 2017-2018 Chrysler Pacifica Hybrids, the alleged defect in *Kappes* is a defect in the propulsion system of 2017-2023 Chrysler Pacifica Hybrid minivans that can cause the vehicles to experience an immediate shutdown of motive power while the vehicles are being driven (the "Spontaneous Shutdown Risk"). The putative class in *Kappes* is larger because it concerns all Chrysler Pacifica Hybrids from 2017-2023, but both cases presently share the same Plaintiffs, the same Defendant, and concern the motive power system of the same vehicles, Plaintiffs filed *Kappes* as a related case to this case.

**FCA US's Position:** The *Kappes* case is fundamentally unrelated to the present MDL. While the Pacifica Fire MDL and *Kappes* involve the same vehicle platform, the two cases involve completely different claims. Further, the putative *Kappes* class is made up of different individuals than the putative Pacifica Fire MDL class. Consolidating the cases would raise serious questions regarding the manageability of any class. And, it is unclear whether the *Kappes* plaintiffs have addressed consolidation with the JPML.

While *Kappes*' and Pacifica MDL's mutual plaintiffs' counsel suggest that the alleged defects in the cases are similar, the nature of the alleged defects are such that the cases will not revolve around a nucleus of common facts. *Kappes* addresses the transmission in 2017-2023 Chrysler Pacifica Hybrid minivans and a potential loss of motive power. The Pacifica Fire MDL focuses on the battery in 2017-2018 Chrysler Pacifica Hybrid minivans and potential fire risk.

Finally, the *Kappes* plaintiffs notified the Court of their contention that the *Kappes* case is somehow related to the Pacifica Fire MDL when they filed their complaint. Nonetheless, *Kappes* was assigned to Judge Friedman. If Plaintiffs believe this is incorrect and that the cases should be consolidated, Plaintiffs should file a motion to consolidate under Rule 42(a). Otherwise, FCA US is puzzled as to why Plaintiffs are raising *Kappes* in this status report.

Dated: February 8, 2023

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Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on February 8, 2023, I electronically submitted the foregoing document using the Court's utilities system through CM/ECF and have notified counsel of record upon its submission.

/s/ E. Powell Miller

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